APPENDIX

of

Sections of Missouri Statutes Involved.

Revised Statutes of 1939.

Chapter 79, Article VII—Organization of Levee Districts:

Sec. 12538. Board May Make Additional Levy of Tax, When and for What Purposes.—Where the works set out in "the plan for reclamation" of any levee district is found insufficient to reclaim in whole or in part any or all of the land and other property of the district the board of supervisors shall have the right to formulate new or amended plans containing new levees or other works, or providing for the enlargement of existing levees or other works, and additional assessments **may** be made in conformity with the provisions of section 12511, the same to be made in proportion to the increased benefits accruing to the lands and other property because of the additional works. If it should be found at any time that the amount of total tax levied under the provisions of section 12511 is insufficient to pay cost of works set out in "the plan for reclamation" or additional work done under the provisions of this section, the board of supervisors may make an additional levy to provide funds to complete the work: Provided, the total of all levies of such tax does not exceed the total amount of benefits assessed. (R. S. 1929, § 10948.)

Chapter 6, Article VI—Amendment of Pleadings:

Sec. 971. Amendment Before Final Judgment.—The court may, at any time before final judgment, in furtherance of justice, and on such terms as may be proper, amend any record, pleading, process, entry, return or other pro-

ceedings, by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect, or by inserting other allegations material to the case, or when the amendment does not change substantially the claim or defense, by conforming the pleading or proceeding to the facts proved. (R. S. 1929, § 819.)

Sec. 973. Errors not Affecting Substantial Rights Disregarded.—The court shall, in every stage of the action, disregard any error or defect in the pleadings or proceedings which shall not affect the substantial rights of the adverse party; and no judgment shall be reversed or affected by reason of such error or defect. (R. S. 1929, § 821.)

Sec. 974. Amendments After Judgment.—After final judgment rendered in any cause, the court may, in furtherance of justice, and on such terms as may be just, amend in affirmance of such judgment any record, pleading, process, entries, returns or other proceedings in such cause, by adding or striking out the name of a party, or by correcting a mistake in the name of a party, or a mistake in any other respect, or by rectifying defects or imperfections in matters of form, and such judgment shall not be reversed or annulled therefor. (R. S. 1929, § 822.)

Sec. 969. Variance, When Deemed Material.—No variance between the allegation in the pleading and the proof shall be deemed material, unless it has actually misled the adverse party, to his prejudice, in maintaining his action or defense upon the merits; when it shall be alleged that a party has been so misled, that fact shall be proved to the satisfaction of the court, by affidavit showing in what respect he has been misled, and thereupon the court may order the pleading to be amended upon such terms as shall be just. (R. S. 1929, § 817.)

Sec. 970. Variance Not Material, Proceedings.—When the variance between the allegation in the pleading and the proof is not material, the court may direct the facts to be found according to the evidence, or may order an immediate amendment without costs. (R. S. 1929, § 818.)